



CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 13-059		Contact	Steven Robertson, 218 730-5295	
Application Type	Vacation of Unimproved Street Easement		Planning Commission Date	May 14, 2013	
Deadline for Action	Application Date	April 4, 2013	60 Days	N/A	
	Date Extension Letter Mailed		120 Days	N/A	
Location of Subject	10 Industrial Avenue				
Applicant	Nancy Nilsen		Contact	nancynilsen@hotmail.com	
Agent			Contact		
Legal Description	See attached				
Site Visit Date			Sign Notice Date	April 30, 2013	
Neighbor Letter Date	April 25, 2013		Number of Letters Sent	53	

Proposal

Property owner is requesting a vacation of an unimproved street easement.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	Traditional Neighborhood

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements requires a Planning Commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the Council.

Code Requirements are found in the UDC Section 50-37.6. The Planning Commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient, supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth .

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Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Comprehensive Plan, Governing Principles:

Principle #5 - Strengthen neighborhoods. The present city is an historical amalgam of villages and other independent units of government, contributing to the present condition of Duluth being strongly defined by its neighborhoods. This condition should be reinforced through land use, transportation and public service delivery patterns which strengthen neighborhood identity. New institutional expansions, major public infrastructure or large commercial or industrial uses should not divide historic neighborhood patterns.

Current History: the applicant is submitting an application for an Interim Use Permit (Vacation Rental Business) for review at the May 2013 Planning Commission hearing.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

- 1) The applicant owns the land to the southwest of the proposed vacation area. The property owners submitted a petition that contained a majority of the affected property owners' signatures.
- 2) The unimproved right of way easement is 20 feet wide. There are some utilities are located in the easement requested to be vacated (natural gas and power lines). Minnesota Power and the City Engineering have requested that a full utility easement be maintained.
- 3) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way.
- 4) This alley is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city (as long as an easement is maintained); the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- 5) No comments were received from the public or city or government agencies on this proposal.
- 6) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the findings, Staff recommends that the Planning Commission recommend approval to the City Council for the petition to vacate the street easement with the following condition:

- 1) The alley be maintained as public right of way for utility needs (note: preservation of the alley already indicated in applicant's vacation certificate of survey).
- 2) Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

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Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



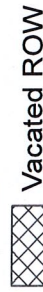
City Planning

PL 13-059

Vacation of Street

Legend

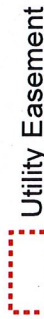
ROW_STATUS



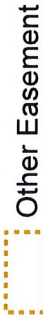
Vacated ROW

Easement Type

Easement Type



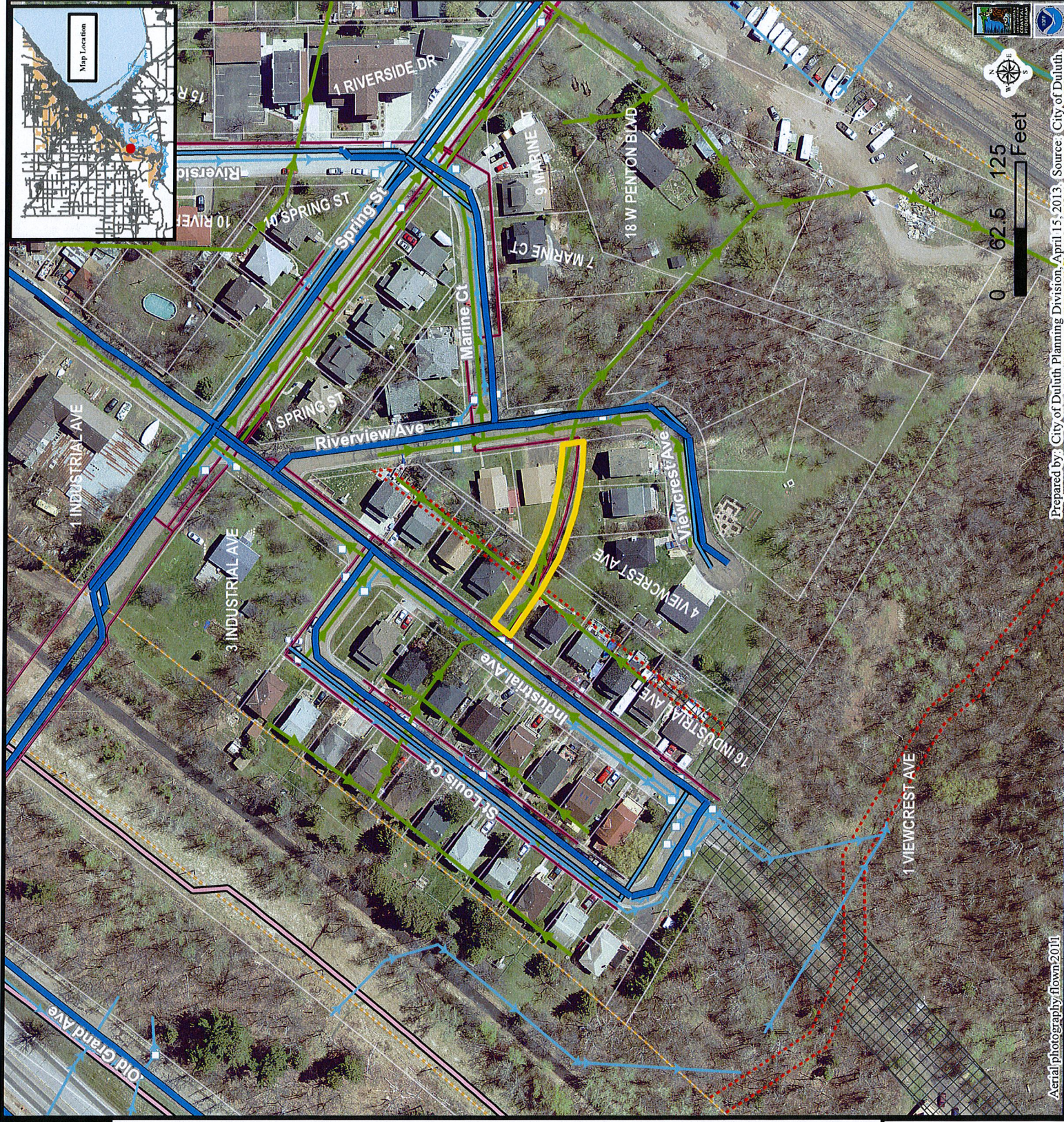
Utility Easement



Other Easement

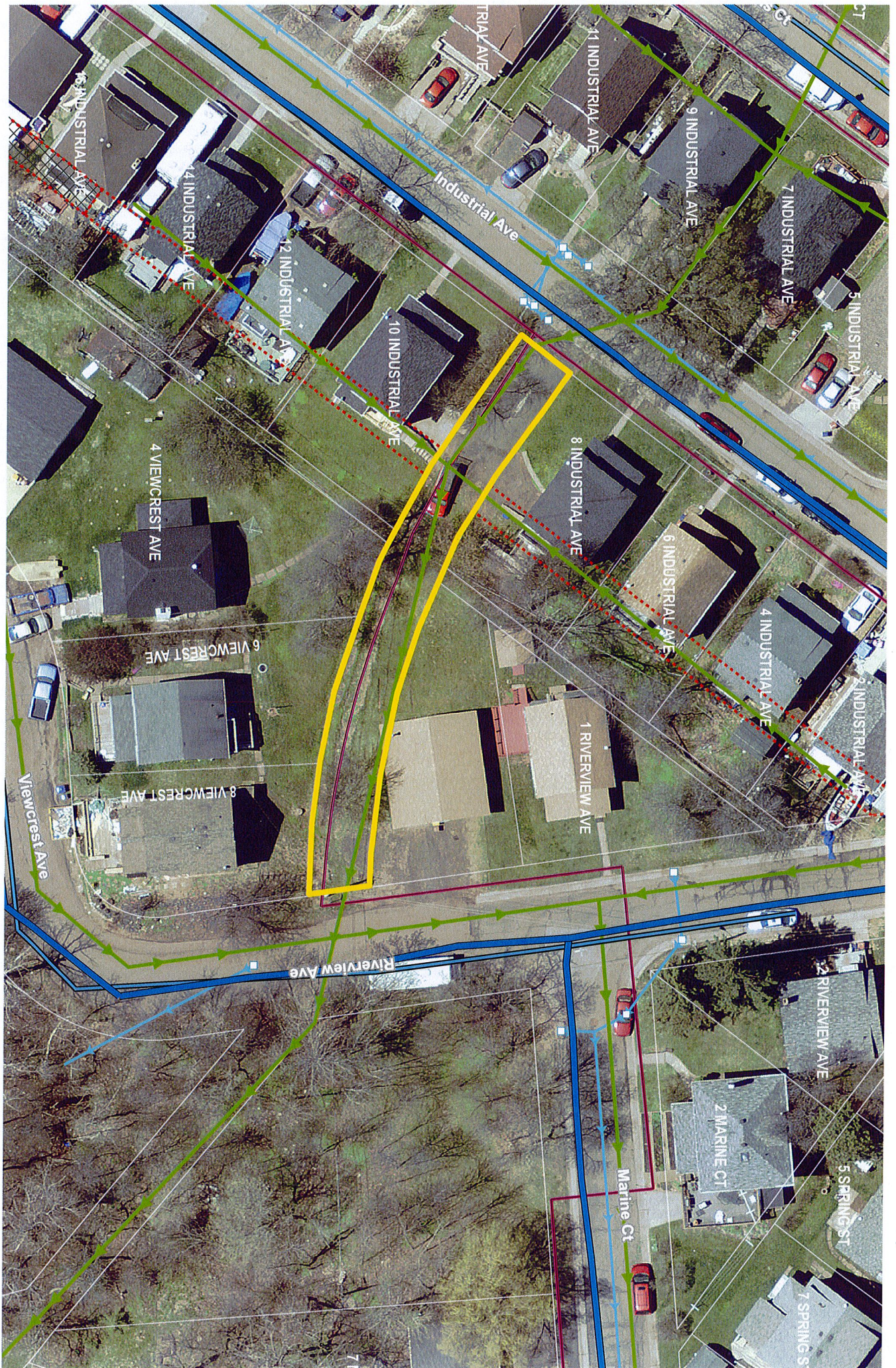
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

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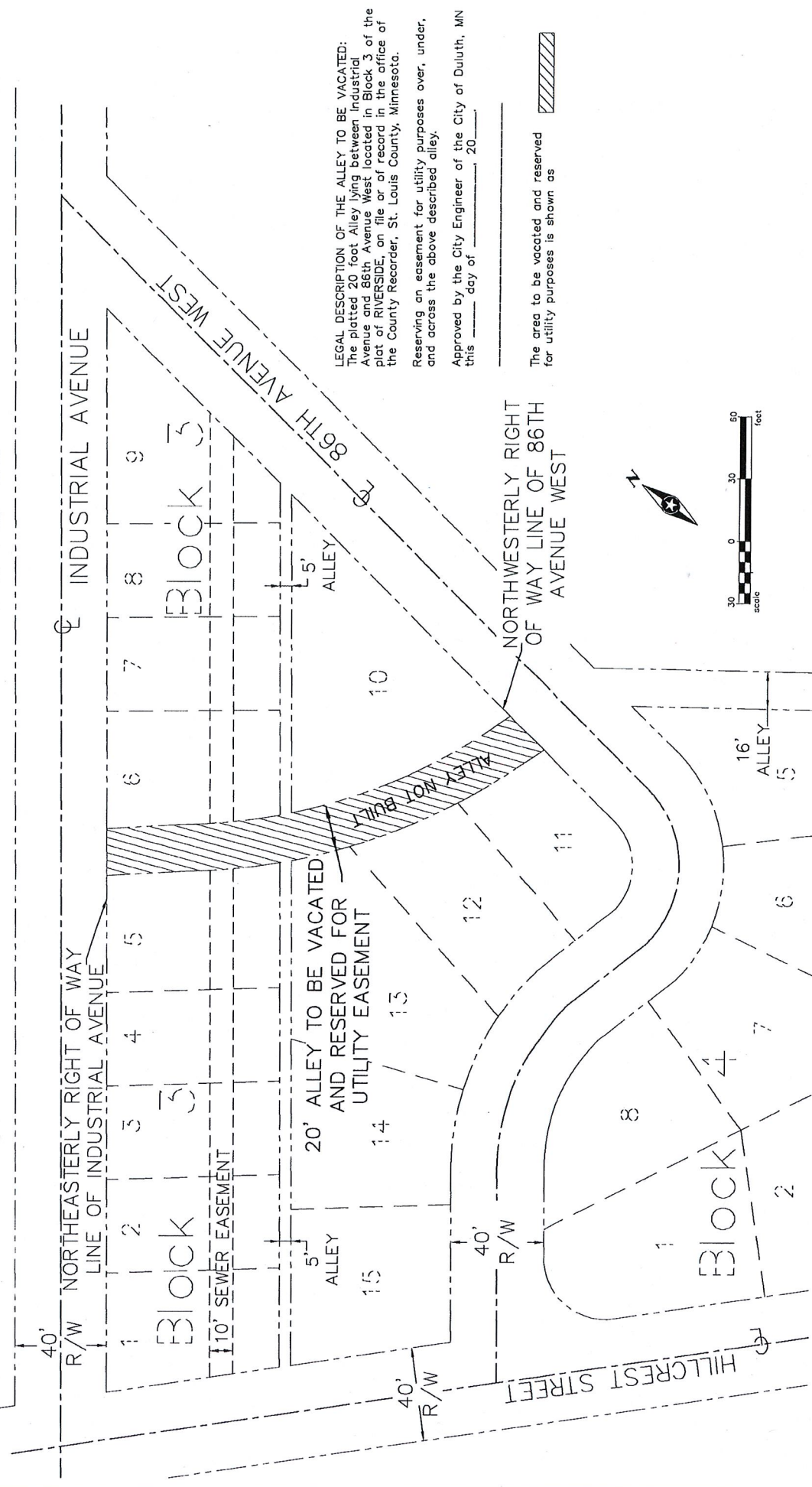
Aerial photography from 2011

Prepared by: City of Duluth Planning Division, April 15, 2013. Source: City of Duluth.



h-41

PLAT OF RIVERSIDE



LEGAL DESCRIPTION OF THE ALLEY TO BE VACATED:
 The plotted 20 foot Alley lying between Industrial Avenue and 86th Avenue West located in Block 3 of the plat of RIVERSIDE, on file or of record in the office of the County Recorder, St. Louis County, Minnesota.
 Reserving an easement for utility purposes over, under, and across the above described alley.
 Approved by the City Engineer of the City of Duluth, MN this ____ day of ____ 20____

The area to be vacated and reserved for utility purposes is shown as



DRAWN BY: _____		DATE: _____		NO. BY: _____		DATE: _____		REVISIONS		 PHONE: 218.279.3300 FAX: 218.279.3301 DULUTH, MN 55802-1312 www.sehinc.com		DULUTH, MINNESOTA		EXHIBIT A		FILE NO. R/VET24050		1	
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17-5

LEGAL DESCRIPTION OF THE ALLEY TO BE VACATED:

The platted 20 foot Alley lying between Industrial Avenue and 86th Avenue West located in Block 3 of the plat of RIVERSIDE, on file or of record in the office of the County Recorder, St. Louis County, Minnesota.

Reserving an easement for utility purposes over, under, and across the above described alley.

Approved by the City Engineer of the City of Duluth, MN
this ____ day of _____, 20____.

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